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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Terry Cassaday

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CANADA

EXAMINER

MCPARTLIN, SARAH BURNHAM

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/525,569	CASSADAY, TERRY	
	Examiner	Art Unit	
	Sarah B. McPartlin	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,9,12-17 and 20 is/are rejected.
- 7) ☒ Claim(s) 6-8,10,11,18 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7 and 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following words / phrases lack sufficient antecedent basis:

- said control (claim 7, lines 1-2)
- said electrical power generator (claim 20, lines 3-4)

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Jansen (6,855,016). With respect to claim 16, Jansen discloses a chair (1) (given that it can be sat upon) having electrical power requirements (i.e. propulsion unit (33)), and a generator (22) carried by said chair (1) for converting energy to which the chair is exposed to (i.e. at pedals (23)) to electrical energy for powering said electrical power

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requirements (33). With respect to claim 17, said generator (22) converts motion of said chair (1), at said pedals (23), to said electrical energy for meeting said chair's electrical requirements at propulsion unit (33).

5. Claims 1-2, 5, 9, 14 and 20 is rejected under 35 U.S.C. 102(e) as being anticipated by Jansen (6,855,016). With respect to claim 1, Jansen discloses a member (1) selected from the group of members consisting of a chair member, a bed member, and a lounge member, said member (1) including an information output device (33) which outputs information, in the form of disturbed water located around the propulsion device (33), from said member (1), an energy converter (44)(22) which converts energy to which the member (1) is exposed to electrical imagery for powering said information output device (33).

With respect to claim 2, said energy converter (44)(22) comprises a solar panel (44) provided on an exposed surface of said member.

With respect to claim 5, said member (1) comprises a chair (7) and said energy converter (44)(22) converts motion of a moveable portion (23) of the chair (7) to electrical energy.

With respect to claim 9, an electrical rechargeable power pack (42) that is charged by said energy converter (44)(22), said power pack (42) storing the electrical energy and dispersing the electrical energy as required.

With respect to claim 14, said information output device (33) comprises information concerning the use of the member (1).

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With respect to claim 20, Jansen discloses a chair (1) having electrical power requirements (33) for displaying information (i.e. disturbed water located around the propulsion unit (33) is a display of information): a rechargeable battery (42) carried by said chair (1) for powering said electrical power requirements (33); solar power means (44) carried by said chair (1) for providing power to said electrical power requirements (33) to display said information; and recharging said rechargeable battery (33); chair movement generator means 22) for providing power to said electrical power requirements (33) to display said information; and recharging said rechargeable battery (42) wherein said rechargeable batter (42) means provides power for displaying said information.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4, 9, 12 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ortlieb (4,933,618) in view of Ziegler et al. (6,393,348). With respect to claim 1, Ortlieb discloses a member (3) selected from the group of members constituting a chair member, a bed member, and a lounge member, said member (3) including an energy converter (9) which converts energy to which the member (3) is exposed to electrical energy.

With respect to claim 2, said energy converter (9) comprises a solar panel provided on an exposed surface of said member (3).

With respect to claim 9, an electrical rechargeable power pack, in the form of "a rechargeable nickel cadmium battery" (column 4, line 16) is used in conjunction with the solar panel (9) to power both the motion and the control (10) of the member (3).

With respect to claim 12, an electrically operated body repositioning means (7) is powered by said energy converter (9) and/or a rechargeable power pack in the form of a "rechargeable nickel cadmium battery" (column 4, line 16).

As disclosed above, Ortlieb discloses all claimed elements with the exception of an information output device, which comprises a bio-rhythm sensor, outputs information concerning the use of the member and is the form of a heart rate monitor and a digital display.

Ziegler et al. teaches the use of an information output device (5) attached to a member (1). The information output device (5) includes a variety of biorhythm sensors including a heart rate monitor (8). The information output device outputs information via a transmitter (5c) regarding the use of the member (1) to a digital display (6).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to attach the information output device taught by Ziegler et al. to the member (3) disclosed by Ortlieb. Such a modification would enable a caretaker or the like to monitor the temperature of a sunbathing person to ensure they do not exceed a recommended temperature for safety purposes.

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8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ortlieb (4,933,618) in view of Ziegler et al. (6,393,348) and in further view of Burt (US 2002/0056709). As disclosed above, Ortlieb, as modified reveals all claimed elements with the exception of said body-repositioning means comprising a lumbar adjustment member controlled by a timer.

Burt teaches the use of lumbar supports (20) that include heated electrically conductive elastomeric materials. The expansion and contraction of the lumbar elements are traditionally controlled by a timer (paragraph [0004]) and provide a vibrating motion.

It would have been obvious to add lumbar support elements to the seat disclosed by Ortlieb. Such a modification would ensure that seat occupants do not get fatigued backs while sitting in the seat.

Allowable Subject Matter

9. Claims 6, 8, 10-11 and 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claim 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Amendment/Arguments

11. The amendment filed on August 1, 2006 has been considered in its entirety.

Remaining issues are detailed in the section above.

Applicant argues that Ortlieb does not disclose a member, which includes an information output device, which outputs information from the member. The Examiner agrees that Ortlieb does not disclose such an information output device, however, in the rejection set forth above, Ziegler et al. is relied upon for his teaching of an information output device. Applicant further argues that Ortlieb does not disclose a rechargeable battery. The Examiner would like to draw Applicant's attention to column 4, line 16 where Ortlieb discloses a rechargeable power pack in the form of a "rechargeable nickel cadmium battery". The claims pertaining to the subjected matter recited in numbered list elements 2-5 located on page 8 of Applicant's response are indicated as allowable above.

Applicant further argues that Jansen does not disclose s a member that includes an information output device. The phrase "information output device" can be interpreted very broadly and only requires an element that conveys information. The propulsion system (33) conveys information by its motion. An onlooker receives this visual information and is able to determine if the propulsion system is operating or stopped. Furthermore, the Jansen device (1) as a whole is considered a chair because it is capable of being sat upon. Finally, Jansen discloses a rechargeable battery (42) in Figure 6.

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Applicant further argues that Ziegler does not disclose an information output device, which outputs information. Element (5) constitutes an information output device because it send signals, a.k.a. information, to the receiver (6) for display to a user.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SBM
September 28, 2006


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